

63-7414

27 September 1963

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Protection of Intelligence Sources and Methods

1. This memorandum is for information.
2. It is my opinion that your statutory responsibility for protection of intelligence sources and methods goes beyond the Central Intelligence Agency and extends to the intelligence activities of the Government as a whole. It is clear that the Congress, in enacting the National Security Act of 1947, used the term "Director of Central Intelligence" deliberately to connote a wider responsibility than the Head of the Central Intelligence Agency. Their position in this regard has been reaffirmed in various ways at various times since then. In the Executive Branch the President's letter to you of 16 January 1962 also defines this over-all responsibility.
3. While section 102(d) of the National Security Act places the functional duties outlined therein on the Agency, the responsibility for protecting intelligence sources and methods is the only one specifically placed on the Director of Central Intelligence. Paragraph 5 of NSCID No. 1 provides that the Director of Central Intelligence, with the assistance and support of the members of the U. S. Intelligence Board, shall ensure the development of policies and procedures for the protection of intelligence and of intelligence sources and methods from unauthorized disclosure. However, each department and agency will be responsible for such protection and shall establish appropriate internal policies and procedures. This latter provision is consistent with Executive Order 10450 setting forth the security requirements for Government employment. Section 2 of the Order provides that the head of each department and agency shall be responsible for establishing and maintaining within his department or agency an effective program to insure that employment is clearly consistent with the interests of national

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security. The important phrase here is "an effective program," and section 13 of the Order states that the Attorney General is requested to render such advice as may be requisite to enable the heads of departments and agencies to establish an appropriate employee security program. Section 14 of the Order provides that the Civil Service Commission shall make a continuing study of the manner in which this Order is being implemented to determine deficiencies in security programs which are inconsistent with the interests of, or directly or indirectly weaken, the national security. Similarly, in section 5 of NSCID No. 1 there is a provision that the Director of Central Intelligence shall call upon the departments and agencies, as appropriate, to investigate any unauthorized disclosure of intelligence or of intelligence sources or methods and that a report of these investigations, including corrective measures taken or recommended within the departments and agencies, shall be transmitted to the Director of Central Intelligence for review and such further action as may be appropriate, including reports to the National Security Council or the President.

4. It is recognized that there is no specific and direct authority given to the Director to carry out his statutory responsibility. There are several methods, however, by which the Director can take effective action. He could request the Civil Service Commission to study the intelligence community for deficiencies in present personnel security programs. He could ask the Attorney General to advise departments and agencies involved on an appropriate employee security program. However, the Central Intelligence Agency's employee security program, while it is consistent with Executive Order 10450, is basically carried out under the authority of the National Security Act of 1947, as amended, and the Central Intelligence Agency Act of 1949, as amended. Consequently, I believe it preferable, at least in the first instance, for the Director to take action within the confines of the intelligence community by direct approach to the heads of departments and agencies concerned with recommendations that they adopt specific procedures or practices to make more effective their own programs for protection of intelligence sources and methods. Such an approach could start with study and recommendations by the Security Committee under DCID No. 1/11 or could be initiated in USIB under paragraph 5 of NSCID No. 1, but there is no legal bar which would prevent the Director from initiating his own action in this regard. Granting his lack of command authority outside CIA and the responsibility of heads of departments and agencies for their own security, the ability to obtain compliance lies, of course, in the Director's duty to report and make recommendations to the National Security Council and the President.

S/ Lawrence R. Houston

LAWRENCE R. HOUSTON
General Counsel